

1 Q Did you ever see the SMC vehicle after the
2 accident?

3 A No, ma'am.

4 Q And was there any damage done to the Salinas
5 tractor?

6 A Nothing.

7 Q Did Israel Martinez turn in any logs for that
8 trip?

9 A No, ma'am.

10 Q Do you know how Israel returned to Texas?

11 A No, ma'am.

12 Q Did Roy call you from the accident scene?

13 A No.

14 Q Have you ever issued a 1099 to Israel Martinez?

15 A No, ma'am.

16 Q Why not?

17 A Because he only worked with me three, four
18 times. I never --

19 Q How many times does it take to work for you
20 before you issue someone a 1099?

21 A It all depends. I don't know.

22 Q What does it depend on?

23 A Depends how much money they make.

24 Q Is there a certain cutoff?

25 A No. I mean, I don't know.

1 Q I mean, does Salinas Express have a policy about
2 when it issues 1099s and when it doesn't?

3 A Anybody that works for the company.

4 Q So is there a reason why Israel Martinez was not
5 issued one?

6 A Because I paid him out of my pocket.

7 Q Was he paid for this trip to Virginia?

8 A No, ma'am.

9 Q Was anyone paid for the trip to Virginia?

10 A Not that I'm aware of.

11 Q Was Eddie paid?

12 A The trip, I paid him the miles coming down to
13 deliver the load.

14 Q And do you have a record of that?

15 A I have a 1099.

16 Q Anything else besides a 1099?

17 A No.

18 Q Is it not recorded in Sylvia's book?

19 A Yes, she writes everything down, like, how much
20 they would pay every week.

21 Q So she just records things by the week?

22 A Yes.

23 Q Are there any records that show what someone is
24 paid for a specific job?

25 A No.

1 Q How does Salinas Express keep track of whether
2 someone has been paid for a particular job or not?

3 A I just put the confirmation number and the miles
4 and that's it.

5 Q So there would be a certain payment associated
6 with a confirmation number?

7 A Yes.

8 Q And is that recorded in her book?

9 A Yes.

10 Q So in her book somewhere there should be an
11 entry for the confirmation number that's on top of
12 exhibit, what exhibit is that?

13 A Nine.

14 Q Exhibit 9?

15 A Yes.

16 Q Attached to Eddie Lozano?

17 A Yes.

18 Q What about Roy, he delivered?

19 A Well, I don't know exactly if it would be paid
20 under Eddie or Roy, and Roy paid Eddie. I don't know
21 exactly how that worked.

22 Q But somewhere there should be a record of that
23 payment?

24 A Yes.

25 MR. DUNN: You are talking about Exhibit 9,

1 counsel?

2 MS. WHITE: Yes.

3 Q (By Ms. White) That book Sylvia keeps, is that
4 the information supplied to your accountant to create your
5 tax returns?

6 A Yes.

7 Q Has Salinas Express ever borrowed vehicles from
8 SMC Transport before?

9 A No, ma'am.

10 Q Has Salinas Express and SMC Transport ever
11 shared drivers?

12 A No, ma'am.

13 Q Has Salinas Express and SMC Transport ever done
14 favors for each other?

15 A No, ma'am.

16 Q The AT&T account for your cell phone, is that an
17 individual account or is that a Salinas Express account?

18 A Individual.

19 Q Does Salinas Express have any cell phones in its
20 name?

21 A No, ma'am.

22 Q Do you pay for the cell phones of any of your
23 drivers?

24 A No, ma'am.

25 Q Did Salinas Express administer any tests to

1 Israel Martinez before you let him out three, four times?

2 A I took him out on a driving test.

3 Q Just the one around Zapata?

4 A Yes.

5 Q That was the only one?

6 A Yes.

7 Q What did you guys do?

8 A Just drove, like, for about 30 minutes, doing
9 turns, how he shifted, and stuff like that, backing up,
10 how he pre-tripped the truck.

11 Q Pre-tripped?

12 A Yeah.

13 Q What does that mean?

14 A Check tires, check the belts, checking
15 everything, brakes, everything.

16 Q Is that a requirement that a driver do everyday?

17 A Everyday.

18 Q And is that required to be recorded somewhere?

19 A In the logs.

20 Q And are you required to keep a copy of that?

21 A A copy of the logs.

22 Q So does Salinas Express have a copy of any
23 pre-trip inspections that Israel Martinez did in the three
24 to four times he helped you out?

25 A I don't have none of his logs.

1 MR. HEARN: I'm sorry, what was that
2 answer?

3 THE WITNESS: I don't have any of his logs.

4 MR. DUNN: I'm sorry?

5 MR. FRANKL: I don't have any of his logs.

6 MR. DUNN: I got this thing buzzing in my
7 ear over here, so I apologize.

8 Q (By Ms. White) So -- and that's something that he
9 would have done out on the road when he was away from your
10 facility?

11 A Every morning, every time -- before he takes
12 off.

13 O So do you know for a fact that he did it?

14 A He would do it there at the yard before he would
15 take off.

16 Q So you have no way to verify that he did it when
17 he was out of your site?

18 A No.

19 Q Did Roy tell you what was wrong with his tractor
20 when it broke down?

21 A Yes

22 0 What did he say?

23 A He said he thought his rear ends had gone out on
24 his truck

25 0 Thought his rear ends had gone out?

1 A Yes.

2 Q What does that mean?

3 A That the truck was making a noise when he was
4 driving.

5 Q And did you have any suggestions on how to fix
6 that?

7 A You can't fix it on the road.

8 Q Did you have any suggestions on where he takes
9 it to get it fixed?

10 A No, ma'am.

11 Q Are you aware of whether Roy had driven this
12 particular SMC tractor before?

13 A I'm not aware of it.

14 Q Are you aware of any work that Roy did for SMC?

15 A When he was leased on to them, but that was
16 about it.

17 MR. FRANKL: I'm sorry, when he what?

18 THE WITNESS: When he was leased on to
19 them.

20 Q (By Ms. White) When did he stop working for
21 them?

22 A September.

23 Q Of 2015?

24 A Yes.

25 Q Did he do any work for them after that?

1 A I wouldn't be aware of it.

2 Q Was Israel Martinez disciplined in any way after
3 the accident?

4 MR. HEARN: Objection.

5 Q (By Ms. White) You can answer.

6 MR. HEARN: You can answer.

7 A No, ma'am.

8 Q Was he sanctioned in any way?

9 A No, ma'am.

10 MR. HEARN: Same objection.

11 MS. WHITE: What's the objection?

12 MR. HEARN: He can answer.

13 MS. WHITE: No, I just -- I just want to
14 know if I should correct it.

15 MR. HEARN: It's a relevancy objection, but
16 go ahead.

17 A No, ma'am.

18 Q And you didn't talk to him in any way about the
19 accident?

20 A I didn't see him for a couple of weeks or
21 months.

22 Q Did he do any work for you after the accident
23 but before January 2016?

24 A Not before.

25 Q Did he go -- he didn't go to Ohio for you in

1 November or December 2015?

2 A No, ma'am.

3 Q And he did not go to Winchester for you

4 August 18th through 23rd, 2015?

5 A No, ma'am.

6 MR. FRANKL: Let's go off the record.

7 We've been going an hour and a half.

8 THE VIDEOGRAPHER: The time is 2:33 in the
9 afternoon, and we're off the record.

10 THE VIDEOGRAPHER: We are back on the
11 record. The time is 2:46 in the afternoon and you may
12 continue with the deposition, please.

13 MR. FRANKL: When we left you were just
14 asking him if Israel Martinez had ever been to Ohio or to
15 Winchester.

16 I discussed with Mr. Salinas, he recalls a
17 trip to Alabama and a trip to Georgia, but I think he says
18 it's possible that he took a trip up to Winchester but he
19 does not recall a trip to Ohio. So, if that prompts any
20 additional questions.

21 Q (By Ms. White) All right. So we've just had a
22 clarifying statement from your counsel, so I guess I'm
23 just going to go over and ask the same question again.

24 Did Israel Martinez take a trip to Ohio on
25 behalf of Salinas Express in November or December 2015?

1 A No, ma'am.

2 Q And did Israel Martinez take a trip to
3 Winchester on behalf of Salinas Express in August?

4 A It's possible.

5 Q Did you review any records prior to the
6 deposition to ascertain whether he did that or not?

7 A No, ma'am.

8 Q Do you in fact have any records to look at that
9 that would show whether he took those trips?

10 A Yes, ma'am.

11 Q You do?

12 A I should have them.

13 Q What kind of records do you have?

14 A Well, I would only have the confirmation sheet,
15 that's it, but it wouldn't say who did it or who took it.

16 Q So you'd have a confirmation sheet of the trip?

17 A Yes.

18 Q Exhibit Number 9, is that an example of a
19 confirmation sheet?

20 A Yes, ma'am.

21 Q Do you have one of those?

22 A Well, they're different for Warner. That's a
23 Warner load, they're different.

24 Q So for C.H. Robinson, that's what a confirmation
25 sheet looks like?

1 A Yes.

2 Q And up at the top of Exhibit Number 9 it says --
3 does it say Roy?

4 A Yeah, I write down who takes the load.

5 Q You do?

6 A Yes.

7 Q So are there any confirmation sheets that would
8 bear Israel Martinez's name?

9 A I would need to look through them.

10 Q So you have not done that?

11 A No.

12 MS. WHITE: I would ask that that be done.

13 MR. FRANKL: I'm sorry. What are you
14 asking?

15 MS. WHITE: To look through the
16 confirmation sheets to see if any of them bear Israel
17 Martinez's name.

18 MR. FRANKL: Can you provide me a request
19 for that and I will be glad to provide at the appropriate
20 time.

21 MS. WHITE: Sure. If we have not already
22 done so, we will do so.

23 I think it would be responsive to request
24 for production 13 in plaintiff's first interrogatories and
25 request for production to Salinas Express which says, any

1 and all records reflecting any work, paid or unpaid,
2 performed by Israel Martinez Jr. for Salinas Express in
3 the previous five years.

4 MR. FRANKL: I'll look to see if we have
5 it. You said Request 13?

6 MS. WHITE: Yes.

7 MR. FRANKL: Thank you.

8 Q (By Ms. White) Is there any other driver besides
9 Israel Martinez that has performed work for Salinas
10 Express that you did not provide a 1099 to?

11 A No, ma'am.

12 Q So why treat Israel differently?

13 A Because he only worked like maybe once in a
14 while with me. He never worked steady with me.

15 Q Can you estimate how often he worked for you?

16 A He only did, like, three, four loads right
17 before the accident.

18 Q Was his rate the same, 40 cents and 25 cents a
19 mile?

20 A Yes, ma'am.

21 Q And did you keep the seven percent from him as
22 well?

23 A Yes, ma'am.

24 Q Just to be clear, Israel Martinez did not own
25 any of the tractors that he drove for you?

1 A No.

2 Q And you do not have any written lease agreements
3 with Israel Martinez?

4 A No.

5 Q And Israel Martinez did not lease from anyone
6 else the tractors that he drove on behalf of Salinas
7 Express?

8 A I don't understand the question.

9 Q Well, since he would drive, he drove Number 110?

10 A And he drove also another truck, Number 109.

11 Q Yes. He did not lease those from the owners of
12 those trucks?

13 A No.

14 Q Does Salinas Express have any sort of safety
15 guidelines?

16 MR. FRANKL: Written safety guidelines?

17 Q (By Ms. White) Written safety guidelines?

18 A Just whatever the DOT requires.

19 Q Do you have any that you give to drivers?

20 A Yes, ma'am, I'm pretty sure there is.

21 Q Does Salinas Express ever undertake any training
22 for drivers on DOT guidelines?

23 A No, ma'am.

24 Q Does Salinas Express ever undertake any reviews
25 to make sure that their drivers are complying with DOT

1 guidelines?

2 A We just check their logs. I mean, that's about
3 it.

4 Q How often?

5 A Every month.

6 Q For every driver?

7 A Yes, ma'am.

8 Q Who's responsible for that?

9 A Me or my sister.

10 Q And what do you check their logs for?

11 A The hours that they drive, what they need to
12 drive and that they don't go over, none of that.

13 Q And what happens if someone goes over?

14 A I give them two weeks off.

15 Q So that would be a form of discipline?

16 A Yes.

17 Q How often have you had to do that?

18 A I think only once.

19 Q Who was that employee?

20 A Angel Lopez. He does not work for me anymore.

21 Q But you never had any logs from Israel to check?

22 A No.

23 Q And is that a DOT requirement, that you review
24 your driver's logs?

25 A Yes, ma'am.

1 Q Did you seek any drug tests for Israel Martinez
2 after the accident?

3 A No, ma'am.

4 Q Why not?

5 A He wasn't driving my truck.

6 Q Did you seek any drug test for Eddie Lozano
7 after the accident?

8 A No, ma'am, he was involved in no accident.

9 Q How did you know that?

10 A Because I found out two, three days later when I
11 talked to him.

12 Q So you did talk to Eddie after the accident?

13 A After the accident, yeah, but two, three days
14 after.

15 Q What did you and Eddie talk about?

16 A Well, I just asked him what happened. He just
17 told me Israel got into an accident and that was it. I
18 didn't want to go into details.

19 Q Well, is it a DOT requirement that you drug test
20 your driver if they're involved in an accident?

21 A He wasn't my driver at that time.

22 Q But Eddie was your driver?

23 A Yes, but he wasn't involved in the accident.

24 Q So you at least had enough conversation with
25 Eddie that you knew he was not involved in the accident?

1 A Two, three days later when I got home is when I
2 found out.

3 Q So what did Eddie describe to you had happened
4 in the accident?

5 A Just that Israel was driving the truck or he was
6 there parked, they hit him and that was about it.

7 Q So Eddie's description of the accident was that
8 Israel was parked and he got hit?

9 A That's what I got -- that's what I got out of
10 him. That's what he thought.

11 Q Did he tell you where Israel was parked?

12 A No, ma'am.

13 Q Had Eddie delivered his load when you, before
14 this conversation took place or after?

15 A After.

16 Q Do you know where he was?

17 A No. Before or after are you asking?

18 Q Yeah, but Eddie was finishing the trip that Roy
19 started.

20 A Okay.

21 Q Is that correct?

22 A I saw him there in Zapata so it was after he
23 delivered the load.

24 Q So you talked to Eddie after he finished
25 completing the trip that Roy had started?

1 A Yes.

2 Q And that's when he informed you that there had
3 been an accident?

4 A Yes.

5 Q Was that the first time you learned of the
6 accident?

7 A Yes, ma'am.

8 Q Did you call Roy at all?

9 A He was there at my house, too, when I got there.

10 Q So Roy and Eddie came together?

11 A Yes.

12 Q And did Roy say anything about how the accident
13 happened?

14 A He just said the same thing, that they hit
15 Israel, and that was about it.

16 Q Were you aware that Israel was towing Roy's
17 Salinas Express tractor at the time?

18 A When they told me there at the house, yes,
19 that's when I found out.

20 Q And did you ask them how it was that Israel came
21 to be doing that?

22 A No, I didn't ask them.

23 Q I mean, did you have any concern for the tractor
24 that you owned how Israel came to be towing it?

25 A He told me about it, that they went to go pick

1 it up, that's what he told me.

2 Q Who told you?

3 A Roy.

4 Q Did you have any thought at that time to
5 undertake an investigation to find out how your tractor
6 had been involved in this accident?

7 A No, because my truck, like I said, my truck
8 wasn't damaged so I didn't think there was any reason to
9 do it.

10 Q Was Roy asked to take a drug test after the
11 accident?

12 A No, ma'am.

13 Q Why not?

14 A He wasn't involved in the accident.

15 Q How did you know that?

16 A Because he told me when he got to the house.

17 Q What did he tell you?

18 A That Israel was involved in an accident.

19 Q Did you ask Roy if he was in the truck at the
20 time with Israel?

21 A No, I didn't ask him.

22 Q Do you know whether he was in the truck at the
23 time?

24 A No, I didn't know.

25 Q Did you ask Roy what he was doing?

1 A I didn't ask him.

2 Q So how did you know that he wasn't involved in
3 the accident?

4 A Because he said they hit Israel and he was on
5 top of SMC's truck. That's all he told me.

6 Q How did you -- well, there were two Salinas
7 Express tractors at the rest area at the time, correct?

8 A Yes.

9 Q How did you determine that neither of them were
10 involved in the accident?

11 A Because Eddie and Roy told me when they got home
12 that no truck was involved in the accident, the truck
13 didn't get damaged.

14 Q Did they tell you what those trucks were doing
15 at the time of the accident?

16 A No, ma'am.

17 Q They just said, don't worry, our trucks weren't
18 involved?

19 A They weren't involved, they weren't hit or
20 anything.

21 Q And you just took their word for that?

22 A Yes.

23 Q Had the SMC tractor ever been parked at the
24 Salinas yard?

25 A Not overnight.

1 Q Had it ever been parked there?

2 A Just when they stopped by to visit my mother.

3 Q Who is they?

4 A Huh?

5 Q Who is they?

6 A Like, my cousins.

7 Q Sergio?

8 A Sergio, his dad.

9 Q In the two weeks prior to this accident, had the
10 SMC tractor ever been parked at the Salinas yard?

11 A No, ma'am.

12 Q Do you recall answering written interrogatories
13 in this case?

14 A Yes, ma'am.

15 Q Written questions. And do you recall --

16 MR. FRANKL: As we've already stated for
17 the record, we're going to make some changes to those and
18 Mr. Roy Salinas has not signed those answers, and so
19 deposition interrogatory answers will be amended.

20 MS. WHITE: I understand.

21 Q (By Ms. White) But do you recall answering
22 previously that the SMC tractor had been parked at the
23 Salinas yard?

24 A No, ma'am.

25 Q You don't?

1 A No.

2 Q So you didn't supply any information to that
3 affect?

4 A That the truck was parked at the yard, no.

5 MR. DUNN: I'm sorry, what did you say?

6 THE WITNESS: That the truck was parked at
7 my yard, no, I didn't know that.

8 Q (By Ms. White) You didn't know that or you
9 didn't answer that?

10 A No, I didn't know it was parked there.

11 Q And you've never contended that?

12 A No.

13 MR. FRANKL: I guess I should explain. For
14 the record, I was speaking to various parties and put
15 together, based on the information I was provided those
16 answers. When I sent them to Mr. Rudy Salinas, there are
17 corrections that need to be made.

18 MS. WHITE: I totally understand that. I'm
19 just trying to figure out --

20 Q (By Ms. White) Do you know where that information
21 that the SMC tractor was parked at the Salinas yard came
22 from?

23 A I guess from the other, from my brother or
24 Eddie. I don't know.

25 Q But in any case, that's not a true statement?

1 A No, ma'am.

2 Q Roy's tractor 110 says Salinas Express on the
3 side of it?

4 A Yes, ma'am.

5 Q And your testimony has been that he just started
6 driving that for Salinas Express in September 2015?

7 A Yes.

8 Q When did you all put the Salinas Express logo on
9 the side of his tractor?

10 A September, when he started working.

11 Q Where did you have that done?

12 A There at my house.

13 Q So you have the ability to do that?

14 A I bought them and I just paste it there at my
15 house.

16 Q When did Israel drive tractor 110?

17 A When he went with me on a run going to Georgia.

18 Q Do you know when that was?

19 A I don't know the exact dates.

20 Q Do you know what month it was?

21 A I think it was -- I don't know if it was the
22 ending or the beginning -- the ending of August or
23 beginning of October.

24 Q End of August or beginning of October?

25 A Yeah, I think so. I'm not exactly -- I don't

1 know the dates exactly.

2 Q Will you have a confirmation sheet of that?

3 A I would need to look for it, yes, ma'am.

4 Q Do you know where you went in Georgia?

5 A I think it was Lake Park, Georgia.

6 Q Has Israel driven tractor 110 any time besides
7 that?

8 A I'm not sure. I would need to check my records.

9 Q Is there, have you ever had to send any driver
10 qualification information to any insurer for any of your
11 drivers?

12 A No, ma'am.

13 Q You never had to fill out any sort of
14 information other than maybe providing their name to any
15 insurance company that Salinas Express has used?

16 A Yes, I mean, the drivers I have they have to be
17 on my insurance.

18 Q Okay. And when -- what kind of information do
19 you have to supply?

20 A Just their name and license and birth date.

21 Q And they don't have to fill out any additional
22 form or information?

23 A No, ma'am.

24 Q Does Salinas Express have an official written
25 policy with regard to retention of driver logs?

1 A I'm not sure, ma'am.

2 Q Are you aware whether the SMC tractor and the
3 Salinas Express tractor Number 110 were physically
4 connected at the time of the accident?

5 A I'm not aware of it.

6 Q Did Roy Salinas maintain any separate insurance
7 for tractor 110?

8 A No, ma'am.

9 Q Did anyone at Salinas Express besides yourself
10 have any communication with Roy on his way up to Virginia?

11 A I'm not aware of it.

12 Q The only other person would be your sister
13 probably?

14 A Probably. I don't think so.

15 Q Does she regularly communicate with drivers?

16 A No, ma'am.

17 Q How often did you see Sergio Cuellar?

18 A Probably, like, once a month or twice a month,
19 it depends.

20 Q And is it just for, like, family?

21 A Just family.

22 Q Have you ever borrowed any equipment from SMC,
23 has Salinas Express ever borrowed any equipment from SMC?

24 A No, ma'am.

25 Q Has SMC ever borrowed any equipment from Salinas

1 Express?

2 A No, ma'am.

3 Q Have you ever helped -- has Salinas Express ever
4 helped do any repairs or maintenance on any SMC tractors?

5 A No, ma'am.

6 Q Has SMC or anyone or any of their employees
7 helped do any maintenance on any Salinas Express tractors?

8 A No, ma'am.

9 Q Exhibit 8 is a driver application for employment
10 form.

11 MS. WHITE: Dan, do you have the other
12 exhibits?

13 MR. HEARN: Court reporter does.

14 MS. WHITE: And the same form, Exhibit 2.

15 Q (By Ms. White) Have you had a chance to look at
16 both of those?

17 A Yes, ma'am.

18 Q And are those documents you've seen before?

19 A No, ma'am.

20 Q You never seen them before?

21 A My sister takes care of the driver applications.

22 Q So as a representative of Salinas Express though
23 do you agree that these are Salinas Express employment
24 application forms?

25 A Yes, ma'am.

1 Q Does Salinas Express have a independent
2 contractor form?

3 A Just a lease agreement.

4 Q Just a lease agreement?

5 A Yes.

6 MR. DUNN: Can I interrupt you? Can I see
7 that exhibit you're looking at?

8 THE WITNESS: Yes. Both of them or what?

9 MR. DUNN: No, just that one.

10 MS. WHITE: I have an extra copy if you
11 need. Do you want an extra copy?

12 MR. DUNN: Yeah.

13 MS. WHITE: That's Roy's.

14 MR. SKAFF: Which one are you referencing?

15 MS. WHITE: They're both the same form. I
16 was just talking generally about the form.

17 Q (By Ms. White) Do all drivers have to fill out
18 the forms as in Exhibit 2 and --

19 A Eight.

20 Q And Exhibit 8?

21 A Yes, ma'am.

22 Q And when are they supposed to do that?

23 A Before we hire them.

24 Q And these forms, they say employee, employment
25 application?

1 A Yes, sir. Yes, ma'am. Sorry.

2 Q Is that how generally your drivers are
3 considered to be your employees?

4 A They're just, I mean I pay them with a 1099 so.

5 Q Is there a reason why you do that?

6 A That's just the way that I always done it.

7 Q Have you ever undertaken any consideration as to
8 whether that's the proper thing to do?

9 A I worked for other companies I have leased on my
10 truck out to and that's the way they do it too.

11 Q But that's been when you owned the truck?

12 A I was driving other people's truck and that's
13 the same thing. They pay me with a 1099.

14 Q What paperwork are Salinas Express drivers
15 required to keep besides logbooks? Is there any other?

16 A A trip sheet.

17 Q A trip sheet and is that the confirmation sheet,
18 sheet that --

19 A No, you need a trip sheet where they put all the
20 miles of every state in each load.

21 Q And are those things that you keep?

22 A Yes, ma'am.

23 Q Do you have any trip sheets for Israel Martinez?

24 A No, ma'am.

25 Q What's the reason why not?

1 A He never turned them in.

2 Q He never turned in any paperwork to you?

3 A No, ma'am.

4 Q Then why did you have him fill out an
5 application?

6 A Because I was going to hire him when the truck
7 was ready. And the first load he did. I had already
8 talked to him about what he needed to turn in. He said he
9 was going to do it but that's when he got pulled over and
10 they arrested him.

11 Q Has he done any work for you since he was
12 arrested?

13 A No, ma'am.

14 Q Why not?

15 A His lawyer told him not to.

16 Q Would you still give him work if he asked for
17 it?

18 A Not with his driving record now.

19 Q So besides the trip sheets, is there any other
20 paperwork that they're required to keep?

21 A No, ma'am.

22 Q And the logs.

23 When there is a -- periodically trucks have
24 to go through weigh stations, correct?

25 A Yes, ma'am.

1 Q And are they inspected when, when they go
2 through there?

3 A Not all the time.

4 Q Are they periodically inspected?

5 A Sometimes you can go on a trip up and come back
6 down and they don't inspect you. If you have a light
7 load, they don't inspect you. They let you bypass.

8 Q But periodically they are inspected?

9 A I don't know, probably once a month or something
10 like that. I don't know to be honest.

11 Q And does the Department of Transportation keep a
12 record under the Salinas Express file on Salinas Express
13 about any violations that were noticed on any of these
14 inspections?

15 A I wouldn't know. I don't work for them.

16 Q Have you ever inquired or looked to see if
17 there's a folder for Salinas Express violations?

18 A No, ma'am.

19 Q You don't keep track of any violations for any
20 inspections?

21 A Sometimes they pull over a driver for a little
22 light bulb or something. They'll put in a paper that I
23 have fix it and sign it over and send it to Austin but
24 that's about it.

25 Q Do you keep those?

1 A I keep a copy.

2 Q When repairs have to be made because of one of
3 those violations who pays for those?

4 A The owner operator.

5 Q Are those violations, do they -- is there any
6 fine that's associated with that?

7 A Usually just warnings.

8 Q Have you ever gotten fines, Salinas Express ever
9 been fined?

10 A I mean I think so but I don't know exactly for
11 what for.

12 Q And who pays the fines?

13 A It depends. If it was on the driver, I mean on
14 the owner operator, they pay for it. If it's something
15 that one of the company trailers, there was something
16 wrong with it, we pay for it.

17 Q Is that policy written down anywhere?

18 A I couldn't tell you right now.

19 Q Are there any requirements for emergency
20 equipment that is required to be kept on a tractor?

21 A Yes, ma'am.

22 Q And what is that requirement?

23 A They have to have a fire extinguisher in the
24 truck, triangles, extra fuses and light bulbs.

25 Q What about road flares?

1 A No, ma'am as long as you have your triangles.

2 Q Do any of the Salinas Express drivers keep road
3 flares?

4 A No, ma'am.

5 Q It is not a requirement of Salinas Express to
6 carry road flares?

7 A It's either/or, like, the triangles or the
8 flares, but we usually just have the reflectors.

9 Q The triangles?

10 A Yes.

11 Q Are the drivers ever responsible for loading the
12 vehicles?

13 A No, ma'am.

14 Q That's done where you pick it up?

15 A Yes, ma'am.

16 Q Even when you use your own trailer?

17 A Yes, ma'am.

18 Q Do you know whether Israel Martinez had ever had
19 his driver's license suspended?

20 A No, ma'am.

21 Q You don't know?

22 A No.

23 Q Did you ever check?

24 A I just ran his license before, I mean, we hired
25 him and everything was clear, so.

1 Q Did he have any previous driving violations
2 before you hired him?

3 A I wouldn't be able to tell you right off the top
4 of my head right now.

5 Q Who was it who reviewed his actual driving
6 record?

7 A My sister. She told me he had two violations.
8 but it was failure to appear, but didn't show what they
9 were for.

10 Q When did she tell you that?

11 A Right after, like, probably a day or two after
12 she checked his license.

13 Q And do you know when that was?

14 A I don't know the exact date.

15 Q So was it you or your sister who checked
16 Israel's driving record?

17 A She's the one that does it online.

18 MS. WHITE: Let's take a break.

19 THE VIDEOGRAPHER: The time is 3:32 in the
20 afternoon and we are off the record.

21 THE VIDEOGRAPHER: We are back on the
22 record. The time is 3:49 in the afternoon and you may
23 proceed with the deposition, please.

24 MS. WHITE: Thank you.

25 Q (By Ms. White) Does Salinas Express have anywhere

1 in any file a record of what Israel Martinez was charged
2 with as a result of this accident?

3 A No, ma'am.

4 Q Have you ever seen any record reflecting any
5 charge that resulted from this accident?

6 A No, ma'am.

7 MS. WHITE: Those are all the questions I
8 have.

9 EXAMINATION

10 BY MR. HEARN:

11 Q Mr. Salinas, I'm David Hearn. I represent
12 Israel Martinez. Do you have any family relationship to
13 Israel Martinez?

14 A I don't know, I need to ask my dad. Probably
15 the last branch of the tree or something, but I don't know
16 exact.

17 Q So it's possible?

18 A It's possible.

19 Q Okay. You've got that in front of you as a
20 document previously marked as an exhibit in this case, I
21 can't remember the number?

22 A Two.

23 Q Thank you. This is document Exhibit Number 2
24 which was introduced during Israel Martinez's deposition
25 yesterday, and you are familiar with that document,

1 correct?

2 A Yes, sir.

3 Q All right. That's the application that Israel
4 Martinez filled out for Salinas Express, correct?

5 A Yes, sir.

6 Q And he filled out that application at the
7 request of Salinas Express?

8 A Yes, sir.

9 Q All right. And he filled it out in conjunction
10 with taking a drug test, correct?

11 A No, after taking the drug test and application
12 he barely did it in January.

13 Q So the company's testimony is that that document
14 wasn't filled out until January?

15 A Yes, sir.

16 Q Okay. And if Israel Martinez testified that he
17 filled that document out at the same time he took the drug
18 test, he's either lying or mistaken.

19 A He's probably mistaken.

20 Q Okay. Who -- do you see there's a hire date on
21 there; do you see that?

22 A Yes, sir.

23 Q And who wrote that hire date on there?

24 A That's my sister's handwriting.

25 Q Okay. And what is the normal process that

1 Salinas used at the time that document was completed in
2 terms of how it was filled out and processed?

3 A First, I mean, usually we send them to a drug
4 test and then we run the MVR, and if the MVR comes out
5 clean, then they do the application.

6 Q Does Salinas Express have in its possession a
7 similar document that is exactly the same except it does
8 not have the hire date on it?

9 A No, sir.

10 Q Okay. If a document like that has been produced
11 in discovery, do you have any idea where it came from?

12 A No, sir.

13 Q Do you have any reason that the company would
14 maintain an application filled out by Mr. Martinez that
15 did not have a hire date on it?

16 A No, sir.

17 Q Okay. Who maintains those documents at Salinas
18 Express?

19 A My sister.

20 Q The applications?

21 A Yes, sir.

22 Q Do you review them before they are finalized?

23 A Yes, sir.

24 Q Do you recall reviewing this application for
25 Mr. Martinez?

1 A I usually just check the, like, their driving,
2 who they work for, that's about it.

3 Q Now you testified that Mr. Martinez did some
4 work for Salinas Express before January of 2016.

5 A Yes, sir.

6 Q Is that true?

7 A Yes, sir.

8 Q And you sent him for a drug test I believe in
9 July of 2015?

10 A I don't know exact date but somewhere around
11 there.

12 Q Does the end of July sound about right?

13 A Yeah. More or less, yes.

14 Q And the reason you sent him for a drug test is
15 because you intended or the company intended that he do
16 work for Salinas Express?

17 A That's right.

18 Q And part of being able to do work for the
19 company is passing a drug test?

20 A Yes, sir.

21 Q All right. And you intended that he do work for
22 Salinas Express as soon as possible, correct?

23 A As soon as the truck was ready.

24 Q Right.

25 A I thought it was going to be done faster than

1 what it took.

2 Q But the point is you intended or anticipated
3 that the truck would be ready about the same time he did
4 the drug test?

5 A Yeah, like a week or two later. Yes.

6 Q Right. In other words, you weren't anticipating
7 at the time you sent him for a drug test that there would
8 be a long delay before he started working for the company?

9 A Yes, sir.

10 Q And in fact, he did start doing some work for
11 the company before January?

12 A Yes, sir.

13 Q And when he did that, you called him up and told
14 him that you had a load for him to deliver, correct?

15 A Yes, sir.

16 Q And then he reported to work at Salinas,
17 correct?

18 A Yes, sir.

19 Q And he got into a Salinas vehicle and
20 transported a load for Salinas, correct?

21 A Yes, sir.

22 Q And he was paid for doing that, correct?

23 A Yes, sir.

24 Q And then after January he also received calls
25 from you in which he was assigned to deliver loads,

1 correct?

2 A Only one time.

3 Q Okay. But he did that in the Salinas vehicle?

4 A Yes, sir.

5 Q He made the exact same kind of trip, correct?

6 A Yes, sir.

7 Q He delivered the same exact kind of load,

8 correct?

9 A Yes, sir.

10 Q He was paid in exactly the same way, correct?

11 A Yes, sir. He didn't get paid on this load, the
12 load he did for me.

13 MR. FRANKL: Just for clarity, did he make
14 the delivery of the load in January?

15 THE WITNESS: No, sir, he got arrested.

16 Q (By Mr. Hearn) Okay. And is it your testimony
17 that he -- well, back up.

18 Did he do any work for Salinas between the
19 date of the accident and January?

20 A Only the load he was going to Virginia.

21 Q Okay. So it's the company's testimony that the
22 only work he did after January was the one load where he
23 ended up being arrested?

24 A Yes, sir.

25 Q And you didn't pay him for that?

1 A No, I had to pay for the wrecker.

2 Q But when he left, your intent was to pay him,
3 correct?

4 A Yes, sir.

5 Q And your intent was to pay him exactly the same
6 way he did before January?

7 A Yes, sir.

8 Q So the only thing that was different is he got
9 arrested?

10 A Yes, sir.

11 Q All right. So there was nothing different about
12 what he did for Salinas, how he did it or how he was paid
13 in the time period before January?

14 A No, sir.

15 Q He has to do pre-trip inspections before he
16 leaves with the truck?

17 A Yes, sir.

18 Q He picks the truck up at the Salinas yard?

19 A Yes, sir.

20 Q He does his pre-trip there?

21 A Yes, sir.

22 Q Does he turn them in before he leaves?

23 A No, it's in his log, stays in his log.

24 Q Stays with his logs?

25 A Yes, sir.

1 Q Does he have a logbook or does he have loose log
2 sheets?

3 A They're loose leaves.

4 Q Who gave them to him?

5 A I did.

6 Q Did you also give him the form for the pre-trip
7 or is it already printed on there?

8 A No, you don't have a form. You just have to
9 note it on the log that you did the pre-trip.

10 Q Salinas does not have a preprinted pre-trip
11 form?

12 A We do but the DOT only requires for you to fill
13 it out if there's something wrong with the truck. If
14 there's nothing wrong you don't have to fill it out.

15 Q Okay. Did Israel Martinez ever call you and ask
16 you for copies of his logs?

17 A No, sir.

18 Q Okay. And it's the company's position that
19 Israel never turned his logs in?

20 A Yes, sir.

21 Q And he was never disciplined for that?

22 A No, sir.

23 Q He was never suspended?

24 A Pos, he was only working once -- let's say
25 worked this week, and then the next one he did was for

1 like three, four weeks later, so.

2 Q He was never suspended?

3 A No, sir.

4 Q His pay was never docked?

5 A No, sir.

6 Q And you continued to give him work after the
7 first time he did it?

8 A Yes, sir.

9 Q And you gave him work again after the second
10 time he did it?

11 A We have 30 days to turn them in so ,yes, sir.

12 Q Is there any other driver that pulls for Salinas
13 and doesn't turn their logs in?

14 A They turn them in 30 days.

15 Q Is there any other driver that pulls for Salinas
16 that did not turn their logs in?

17 A No. There was one, but I disciplined for two
18 weeks and that was it.

19 Q And you, as an owner of the company, acknowledge
20 that the company is required to maintain logs for drivers
21 that do work for the company.

22 A Yes, sir.

23 Q That is the company's responsibility?

24 A Yes, sir.

25 Q Your brother is Roy Salinas?

1 A Yes, sir.

2 Q Roy Salinas is an employee of Salinas Express?

3 A He's -- he's not an employee. I just pay him
4 with a 1099.

5 Q You consider him, what, a contractor?

6 A Contractor.

7 Q He's a contractor for Salinas Express?

8 A Yes, sir.

9 Q If Roy Salinas testified that he called you to
10 talk about his disabled truck and you suggested calling
11 Israel Martinez, then Roy is either lying or mistaken?

12 A He's mistaken.

13 Q Have you ever driven that run to Winchester?

14 A Yes, sir.

15 Q All right. How many times have you done that?

16 A In the past two years probably more than 15
17 times.

18 Q More than 15?

19 A Yes, sir.

20 Q Okay. So you know the route pretty well?

21 A Yes, sir.

22 Q And in general terms, you would go from Texas to
23 Louisiana?

24 A My route that I take, it's Texas, Arkansas and
25 then Tennessee.

1 Q You end up in Tennessee?

2 A Yes, sir.

3 Q But you could go Texas to Louisiana?

4 A You could go through there.

5 Q And you could go Louisiana to Mississippi?

6 A Yes, sir.

7 Q And then you could go Mississippi to Tennessee?

8 A Yes.

9 Q And then you could go Tennessee to Virginia?

10 A Yes.

11 Q Did Israel Martinez ever accompany you or any

12 other Salinas driver on a trip to deliver a load for

13 Salinas before this accident happened?

14 A Before, yes, he followed me to Georgia.

15 Q Okay. Did he ever follow anyone else?

16 A I can't be exact.

17 Q It's possible?

18 A It's possible.

19 Q Have you had any discussions with Art Gutierrez

20 about this accident?

21 A No, sir.

22 Q He's your -- is he your cousin?

23 A Yes, sir.

24 Q When was the last time you talked to him?

25 A I don't remember. When his dad passed away, a

1 while back.

2 Q How long ago?

3 A I don't know the exact day, it's like a few
4 months.

5 Q Two months ago?

6 A Like, it's been several months, he lives in
7 Houston so I really don't see him.

8 Q Right. Do you know Israel's wife, Lily
9 Martinez?

10 A I seen her probably like two, three times at the
11 yard.

12 Q Okay. But you don't know her from around
13 Zapata?

14 A No, sir.

15 Q Do you know where she works?

16 A No, sir. I don't know if she works or not.

17 Q Excuse me. Does Salinas, the company, have a
18 phone account?

19 A No, sir.

20 Q Has the company ever filled out any records for
21 the Texas DMV where it listed a phone number or phone
22 account?

23 A My phone number, my cell phone.

24 Q Okay. That was my question. So any documents
25 that have been filed with the Texas DMV would identify

1 your phone number?

2 A Yes, sir.

3 Q Your personal cell phone?

4 A Yes, sir.

5 Q And the company's position is that that's the
6 company's number?

7 A Yes, sir.

8 Q Okay. And as we sit here today, the company
9 doesn't have any paperwork authored by Mr. Martinez other
10 than his application?

11 A Yes, sir.

12 Q And it's the company's position that the reason
13 it has absolutely no paperwork about his activities
14 driving a truck for Salinas is all Mr. Martinez's fault?

15 A Can you repeat the question?

16 Q Yeah. The company's position is the reason it
17 has no paperwork written by Mr. Martinez for his work as a
18 truck driver is because Mr. Martinez did something wrong?

19 A Yes, sir.

20 Q Okay.

21 MR. HEARN: All right, that's all the
22 questions I have right now.

23 EXAMINATION

24 BY MR. DUNN:

25 Q The trip to Virginia in October 26, 2015 where

1 Roy, Eddie, Art and Israel Martinez Jr. went to pick up
2 the disabled Salinas Express vehicle, that wasn't for SMC
3 Transport, was it?

4 A No, sir.

5 Q No one from SMC Transport went on that trip,
6 correct?

7 A No, sir.

8 Q You agree with me?

9 A Not that I'm aware of. I mean, no.

10 Q Right.

11 In fact, no one from SMC Transport was
12 telling Roy, Eddie, Art or Israel Martinez Jr. any
13 instructions or telling them what to do in that trip,
14 correct?

15 A No, sir.

16 Q You agree with me?

17 A Yes, sir.

18 MR. DUNN: Thank you.

19 REEXAMINATION

20 BY MS. WHITE:

21 Q Did you ever give Israel Martinez's pay to his
22 wife Lily?

23 A Maybe once I gave her cash for his work.

24 Q Do you know if Sylvia ever gave her Israel's
25 pay?

1 A I usually would pay him, it was usually me
2 paying him.

MR. FRANKL: Say that again?

THE WITNESS: It was just me paying him.

MS. WHITE: That's all.

MR. FRANKL: He'll read.

THE VIDEOGRAPHER: The time is 4:05 in the
we're off the record.

(Signature having been requested, the deposition was concluded at 4:05 p.m.)

1 ERRATA SHEET -- CHANGES AND SIGNATURE

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RUDY SALINAS

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7
8 I declare under penalty of perjury that the
9 foregoing is true and correct.

10
11 RUDY SALINAS
12

13
14 SUBSCRIBED AND SWORN TO BEFORE ME, the
15 undersigned authority, by the witness, RUDY SALINAS,
16 on this the _____ day of _____,
17 _____.

18
19 NOTARY PUBLIC IN AND FOR
20 THE STATE OF _____

21
22 My Commission Expires: _____
23

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF VIRGINIA
3 ROANOKE DIVISION

4 BRANDON LESTER

§

4 vs.

§

CIVIL ACTION NO.
7:15-CV-665

5 SMC TRANSPORT, LLC AND ISRAEL
6 MARTINEZ, JR. AND SALINAS
7 EXPRESS, LLC

§
§
§

7 REPORTERS CERTIFICATION
8 OF RUDY SALINAS
9 April 19, 2016

10 I, Annette E. Escobar, Certified Shorthand
11 Reporter in and for the State of Texas, hereby certify to
12 the following:

13 That the witness, RUDY SALINAS was duly
14 sworn by the officer and that the transcript of the oral
15 deposition is a true record of the testimony given by the
16 witness;

17 That the deposition transcript was
18 submitted on _____, 2016, to the witness or
19 to the attorney for the witness for examination,
20 signature, and return to me by _____, 2016;

21 That the amount of time used by each party
22 at the deposition is as follows:

23 Plaintiff. JOHNEAL WHITE (2H51M) Attorney for

24 Defendant; LAWRENCE DUNN (0H14M) Attorney for

25 DAVID HEARN (0H01M) Attorney for Defendant.

That pursuant to information given to the

1 deposition officer at the time said testimony was taken,
2 the following includes counsel for all parties of record:

3 Johneal White, Attorney for Plaintiff(s)
4 Lawrence Dunn, Attorney for Defendant(s)
5 David Hearn, Attorney for Defendant(s)
6 Daniel Frankl, Attorney for Defendant(s)

7 I further certify that I am neither counsel
8 for, related to, nor employed by any of the parties in the
9 action in which this proceeding was taken, and further
10 that I am not financially or otherwise interested in the
11 outcome of this action.

12 Certified to by me on this 8th day of May,
13 2016.

14 
15 ANNETTE E. ESCOBAR
16 CSR#5475, Exp: 12/31/17



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